

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 780 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?No

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AMBALAL MANGALBHAI PATEL

Versus

ASSISTANT COLLECTOR DABHOI

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Appearance:

Shri S.K. BUKHARI, Advocate, for the Petitioner.

Shri T.H. SOMPURA, Assistant Government Pleader, for the Respondents.

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CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 18/04/96

ORAL JUDGEMENT

The order passed by the Assistant Collector at Dabhoi (respondent No.1 herein) on 13th July 1994 as affirmed in revision by the decision rendered by the Gujarat Revenue Tribunal at Ahmedabad (the Tribunal for convenience) on 26th October 1994 in Revision Application No.TEN.BA 896 of 1994 is under challenge in this petition under Articles 226 and 227 of the Constitution of India. By his impugned order, respondent No.1 ordered vesting in the Government of one parcel of land bearing survey No.282 situated at village Madogar taluka Waghodia (the disputed land for convenience) under section 65 of the Bombay Tenancy and Agricultural Lands Act, 1948 (the Act for brief).

2. It is not necessary to set out in detail the facts giving rise to this petition. It will be sufficient to note that the disputed land was found to have been kept fallow and uncultivated for more than two years and thereupon the proceeding under section 65 of the Act was undertaken. By his order passed on 13th July 1994 under section 65 of the Act, respondent No.1 ordered the disputed land to vest in the State Government. Its copy is at Annexure-B to this petition. The petitioner carried the matter in revision before the Tribunal. It came to be registered as Revision Application No.TEN.BA 896 of 1994. By its decision rendered on 26th October 1994 in the aforesaid revisional application, the Tribunal rejected it on the ground that it had no jurisdiction to entertain such revisional application. Its copy is at Annexure-C to this petition. The aggrieved petitioner has thereupon approached this court by means of this petition under Articles 226 and 227 of the Constitution of India for questioning the correctness of the order at Annexure-B to this petition as affirmed in revision by the decision at Annexure-C to this petition.

3. It cannot be gainsaid that section 65 of the Act authorises the State Government to take over its management for certain period not exceeding ten years if it finds any agricultural land inter alia to have remained uncultivated. It does not authorise or empower the state Government to vest such land in itself. By the impugned order at Annexure-B to this petition, respondent No.1 exercising the powers of the State Government has ordered vesting of the disputed land in the State Government. That order is clearly without jurisdiction and without any authority of law. It cannot be sustained in law even for a moment.

4. Since the Tribunal has found that it has no

jurisdiction, its decision at Annexure-C to this petition is of no consequence.

5. In the result, this petition is accepted. The order passed by the Assistant Collector of Dabhoi on 13th July 1994 at Annexure-B to this petition as indirectly affirmed by the decision of the Gujarat Revenue Tribunal at Ahmedabad rendered on 26th October 1994 in Revision Application No.TEN.BA 896 of 1994 at Annexure-C to this petition is quashed and set aside. This judgment of mine shall not preclude respondent No.1 or any other competent authority to initiate a fresh proceeding under section 65 of the Act if deemed just and proper. Rule is accordingly made absolute with no order as to costs.

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